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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,807	08/14/2001	Isaac Karpel	RPS920010032US1	2577

28722 7590 05/14/2004

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EXAMINER

PERVEEN, REHANA

ART UNIT PAPER NUMBER

2116

DATE MAILED: 05/14/2004

6

Please find below and/or attached an Office communication concerning this application or proceeding.

8

## Office Action Summary

Application No.

09/929,807

Applicant(s)

KARPEL ET AL.

Examiner

Rehana Perveen

Art Unit

2116

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 10-12 and 19-21 is/are rejected.
- 7) ☒ Claim(s) 4-9, 13-18 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 10, 11, and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace, Jr., Patent No. 6,349,269, in view of Keane et al, Patent No. 5,488,331.

As to claim 1, Wallace, Jr. teaches dynamically reading thermal profile from a patch file, update an associated temperature control function (col. 6 lines 15-21 and col. 7 lines 49-55), and associating data of the thermal profile with a BIOS of a data processing system via a flash utility (col. 3 lines 7-65 and col. 8 lines 9-14).

However, Wallace, Jr. does not expressly teach dynamically updating the thermal profile.

Keane et al teach dynamically updating a thermal profile (col. 6 lines 30-50, update thermal characteristic stored in non-volatile memory).

Art Unit: 2116

It would have been obvious for one of ordinary skill in the art at the time of the invention to combine teachings of Wallace, Jr. and Keane et al because Keane et al's dynamic update of thermal profile data, when incorporated into Wallace, Jr.'s system, would have enabled improved integrity in the combined system by allowing more adequate temperature control of the computer system keeping data integrity.

As to claim 2, Wallace, Jr. teaches providing thermal data within the patch file about an installed processor of the data processing system (col. 3 lines 42-53).

Claims 10, 11, 19, and 20 are directed to the system implementing the method of claims 1 and 2, and claim 21 is directed to the computer readable medium of method claims 1 and 2. Wallace, Jr. and Keane et al, in combination, teach the method as set forth in claims 1 and 2. Therefore, Wallace, Jr. and Keane et al, in combination, also teach the system as set forth in claims 10, 11, 19, and 20. Further, Wallace, Jr. and Keane et al, in combination, also teach the computer readable medium as set forth in claim 21.

Claims 3 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace, Jr., Patent No. 6,349,269, in view of Keane et al, Patent No. 5,488,331, further in view of Odaohhara et al, Patent No. 6,574,740.

Art Unit: 2116

As to claims 3 and 12, neither Wallace, Jr. nor Keane et al expressly teach the data including a first temperature at which fans of the system will engage, a second temperature at which thermal throttling will be utilized, a third temperature at which the processor shuts down, and dynamically controlling temperature control utility to respond according to the data.

Odaohhara et al teach thermal data including a first temperature at which fans of the system will engage, a second temperature at which thermal throttling will be utilized, a third temperature at which the processor shuts down, and dynamically controlling temperature control utility to respond according to the data (col. 12 lines 25-58).

It would have been obvious for one of ordinary skill in the art at the time of the invention to combine teachings of Wallace, Jr. , Keane et al, and Odaohhara et al because Odaohhara et al's different functions at different temperature to aide cooling process, when incorporated into Wallace, Jr. and Keane et al's combined system, would have enabled further integrity by providing improved temperature control in the overall system.

***Allowable Subject Matter***

Claims 4-9, 13-18 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 2116

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rehana Perveen whose telephone number is 703-305-8476. The examiner can normally be reached on 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on 703-308-1159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Rehana Perveen  
Primary Patent Examiner  
Technology Center 2100